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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/883,384	06/19/2001	Frank L. Politano	107833	1064

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EXAMINER

HARBECK, TIMOTHY M

ART UNIT	PAPER NUMBER
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3628

DATE MAILED: 03/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/883,384	<b>Applicant(s)</b> POLITANO, FRANK L.	
	<b>Examiner</b> Timothy M. Harbeck	<b>Art Unit</b> 3628	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_\_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 January 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6, 7, 9-14, 16, 17 and 19-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 7, 9-14, 16, 17 and 19-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 6-7 and 9-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Rowe (US 2002/0198803 A1).

**Re Claim 1:** Rowe discloses a method and apparatus for facilitating monetary and commercial transactions and for providing consumer reward programs comprising

- Depositing value as principal corresponding to a consumed item of a supplier and;
- Accruing earned value based on the principal and a rate (Page 1; paragraphs 0010-0013; specifically note the American Express Platinum Cash Rebate Cards which gives 2% cash back on purchases)

**Re Claim 2:** Rowe further discloses the steps comprising

- Maintaining an account for a consumer that consumed the consumed item (paragraphs 0023-0027)

- Permitting withdrawal of the earned value based on terms of an agreement for the account (paragraphs 0028-0029)

**Re Claim 3:** Rowe further discloses the steps comprising

- Updating the principal based on one or more deposits of consumed items (Paragraph 0148) and;
- Generating a balance of accrued earned value on a schedule based on the agreement (paragraph 0148)

**Re Claim 4:** Rowe discloses the claimed method supra and further discloses the step wherein the account comprises one or more of a savings consumable account, a certificate of deposit and a mutual consumable fund (Paragraphs 0046-0051).

**Re Claim 6:** Rowe further discloses the steps comprising receiving information from one or more suppliers and updating consumer accounts based on the received information (paragraph 0137)

**Re Claim 7:** Rowe discloses the claimed method supra and further discloses the steps wherein the information comprising one or more of:

- One or more new rates to replace rates for one or more consumer accounts
- One or more new consumer accounts
- One or more new maturation dates to replace current maturation dates and;

- One or more principals updates to increment or decrement current principals and;
- One or more earned values to increment or decrement current earned values (paragraphs 0137 and paragraph 0159).

**Re Claim 9:** Rowe discloses the claimed method supra and further discloses the steps comprising on or more of

- Transferring principal from a consumer account to another consumer account
- Withdrawing earned value from a consumer account and;
- Changing parameters of a consumer account (Paragraph 0163-0164)

**Re Claim 10:** Rowe further discloses the steps wherein the principal comprising one or a combination of two or more of:

- Value corresponding to consumed items
- A number of times purchases were made
- A number of times a supplier was visited
- A value for consumed items based on a table of values corresponding to items and;
- A value corresponding to an amount spent during a period of time (paragraphs 0010-0013)

***Claim Rejections - 35 USC § 103***

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-14, 16-17 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rowe.

**Re Claims 11-14, 16-17 and 19-20:** Further system claims would have been obvious to perform previously rejected method claims 1-4, 6-7 and 9-10 respectively and are therefore rejected using the same art and rationale (Also see fig 2A for system layout).

Claims 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rowe in view of Bloom (Jennifer Kingson Bloom. "New B or A Card Offers Discounts on Bank Products. American Banker. New York, N.Y.: Dec 1, 1997. Vol162, Iss. 229: pg 23 (3 page)).

**Re Claim 21:** Rowe discloses the claimed method supra but does not explicitly disclose the step of reducing accrued earned value based on a predetermined condition. Bloom discloses a credit card rewards program that contains tiered levels of rewards, in this case a reduction of interest rates on the card balance, based upon the total expenditures of the card (Page 2, paragraphs 8-11). Essentially if a customer spends more money on their card, then the interest rate on that balance will be reduced. It follows then that if certain preconditions were not met (i.e. level of expenditure) than

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the earned value will be reduced. It would have been obvious to anyone skilled in the ordinary art at the time of invention to include the teachings of Bloom to the method of Rowe in order to entice people to spend more money on their credit card, thus providing the issuer of the card with higher revenues. A flat reward rate provides no incentive to spend more, however increasing the rewards in lockstep with expenditures might entice the credit card holders to spend more in order to achieve the higher rewards.

**Re Claim 22:** Rowe in view of Bloom discloses the claimed method supra and Bloom further discloses the step further comprising wherein the predetermined condition includes one or more of: if a consumer of an account does not consume a predetermined amount of a consumable item and if a consumable item from another supplier is consumed. Bloom points out that a customer who does not consume a certain amount of purchases will not achieve the highest rewards. In other words, if certain threshold expenditure values are not met, the higher set of rewards is not activated.

**Re Claims 23 and 24:** Further system claims would have been obvious from previously rejected method claims 21 and 22 respectively and are therefore rejected using the same art and rationale.

### ***Response to Arguments***

Applicant's arguments filed 1/20/2006 have been fully considered but they are not persuasive. Applicant has argued that the Rowe reference teaches an ordinary rebate program including a 2% cash back program which constitutes a one-time rebate or reward, not an accrual of earned value based on a principal and a rate over time.

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However the invention as claimed recites a method for "accruing earned value based on a principal and a rate." As recited, the Rowe reference still anticipates the claimed invention as the reward program is based on accruing earned value (cash back) based on a principal (the expenditure) and a rate (2%). There is no further limitation regarding the further accumulation of rewards based upon the previously deposited value as argued by the applicant. Therefore the claims can still be rejected based on the Rowe reference. That being said the examiner made an error in the previous office action in rejecting claims 11-20 under 35 USC 102 as being obvious over previously rejected claims 1-10. These claims should have been rejected under 35 USC 103, since they were an obvious type rejection. This action is therefore issued as a non-final.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Harbeck whose telephone number is 571-272-8123. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Souh can be reached on 571-272-6799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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